



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application for Reissue of U.S.
Patent No. 5,824,046

Applicant(s): Smith, et al.

Serial No: 09/691,782

Filing Date: October 19, 2000

Docket: 760-3 RES/RCE

Issued: October 20, 1998

For: IMPROVED COVERED STENT Dated:

I hereby certify this correspondence is being deposited with
the United States Postal Service as first class mail, postpaid in
an envelope, addressed to: Commissioner of Patents, P.O.
Box 1450, Alexandria, VA 22313-1450

Dated: _____

Signature: _____ / _____

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SUPPLEMENTAL REISSUE DECLARATION

Sir:

We, Scott R. Smith, David Sogard, and Susan Shoemaker, residents of Chaska, MN, Edina, MN and Elk River, MN respectively, declare we are citizens of the United States, and:

that we believe we are the original and first inventors of the subject matter claimed in U.S. Patent No. 5,824,046 (hereinafter the '046 patent) entitled "Covered Stent";

that we have reviewed and understand the specification of the accompanying reissue application, including the claims;

that we believe that we are the original and first inventors of the subject matter which is claimed and for which the reissue patent is sought; and

that we acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. §1.56.

We further declare that we believe the above identified original patent to be partly inoperative or invalid by reason of our claiming less than we had a right to claim in the original patent. Specifically, we believe that the original patent is partly inoperative or invalid for including limitations in the claims that were not required by the prior art.

After reviewing the specification and issued claims of the '046 patent and consulting with the patent attorneys of SCIMED Life Systems, Inc. and of Hoffmann & Baron, LLP, who are outside counsel for SCIMED Life Systems, Inc., the assignee of the '046 patent, we came to the realization that we had inadvertently failed to claim certain aspects of our invention.

We believe that the error constituted inadvertent failure to appreciate the full scope of the claims which were available in view of the prior art, and that the error arose without any deceptive intent on our part.

Claim 15 of the re-issue application as submitted in an amendment mailed September 3, 2002, corresponds generally with claim 1 of the '046 patent. Claim 15, however differs from claim 1 in at least one respect, including, for example: Claim 1 describes an elongate segment; said segment being expanded in a transverse direction so as to reduce the original longitudinal expanse of the ePTFE cover. More specifically, claim 1 states that the elongate segment is, "expandable longitudinally upon said radial expansion of said stent to return said expanded segment to said original longitudinal expanse to thereby control said radial expansion of said stent". This language of claim 1 has not been included in claim 15, and has been replaced by language relating to the stent cover having a seam formed by overlapping edges.

Claims 19 and 20 presented in the September 3, 2002, amendment depend from claim 15 and cover more fully features of the seam.

These and other limitations in the issued claims resulted from our apparent failure and the failure of patent counsel to fully appreciate the limiting nature of the claim limitations, as well as failure to fully appreciate the full scope of the invention as taught by the specification.

We declare that all statements made herein, of our own knowledge, are true, and that all statements made upon information and beliefs are believed to be true, and further that these statements were made after being warned that willful false statement and the like are punishable by fine or imprisonment, or both under 18 U.S.C. 1001, and that such false statements may jeopardize the validity of this application or any patent issuing thereon.

Respectfully submitted,

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